

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF NEW MEXICO

CHRISTEE THOMPSON STREETT,

Plaintiff,

v.

CIV 16-0189 MV/KBM

MANNY ORTIZ and JOHN CAMPBELL,

Defendants.

PROPOSED FINDINGS
AND
RECOMMENDED DISPOSITION

THIS MATTER comes before the Court on Plaintiff's "Response to [Order to Show Cause] due by 11/1/2016," which she filed on November 1, 2016. *Doc. 18.* The Honorable Martha Vazquez referred this case to me on August 17, 2016, to conduct hearings, if warranted, including evidentiary hearings, and to perform any legal analysis required to recommend to the Court an ultimate disposition of the case. *Doc. 14.*

As previously noted in the October 25, 2016 Order to Show Cause, the presiding judge, the Honorable Martha Vazquez, has cautioned Plaintiff that "as a matter of fairness and in compliance with the [Federal Rules of Civil Procedure and the Local Rules of Civil Procedure for this Court], Ms. Street should not attempt to obtain relief from this Court without appropriately informing the parties that she is attempting to sue. *Doc. 13* at 4. Judge Vazquez explicitly directed Plaintiff to serve Defendants in this case with process. See *id.* Yet, to date, the record reflects that no summons has been

issued for either Plaintiff's original Complaint, filed March 15, 2016, or her Amended Complaint, filed April 5, 2016.

In its Order to Show Cause, this Court referred Plaintiff to the applicable Federal Rule of Civil Procedure, which provides that a plaintiff must serve a defendant within 90 days after the filing of her complaint to avoid dismissal of the action without prejudice. See *Doc. 16* (quoting Fed. R. Civ. P. 4(m)). The Court directed Plaintiff to "either effect service or provide the Court with a written explanation showing good cause why service has not been made, on or before **Tuesday, November 1, 2016.**" *Doc. 16* at 2 (emphasis in original). It explicitly cautioned Plaintiff that her failure to do so would result in a recommendation to the presiding judge that this action be dismissed without prejudice. *Id.*

Plaintiff's subsequent filings in this case give no indication that she has served Plaintiff with the Amended Complaint. Rather, her first filing, which appears to be a letter addressed to the undersigned entirely unrelated to the issue of service, reads as follows:

The Street Court requires a magistrate. It has come to the attention of said court that the services of the woman, Karen Molzen are available for service at court. If Karen Molzen believes she is qualified to administer the affairs of a "court of record" her honorable service will please said court."

Doc. 17 at 1.

Further, from what the Court can surmise, her "Response to [Order to Show Cause] due by 11/1/2016" attempts to address the merits of her claims against Defendants, rather than the issue of service, as she asserts therein that "The Street Court claims no man has the right to trespass or administer [my] properly, nor have i given consent to do so, nor have i contracted to do so." *Doc. 18* at 1. Plaintiff attaches

to this "Response" a document entitled "Exhibit 2," which is mostly incomprehensible and equally unresponsive to the Court's Order to Show Cause. See *id.* at 3.

In sum, Plaintiff has offered no good cause for her failure to properly serve Defendants with her Amended Complaint pursuant to the Federal Rules of Civil Procedure, and nearly three months have now passed since Judge Vazquez admonished Plaintiff in this regard. Accordingly, Plaintiff has manifested a lack of interest in properly litigating this matter in accordance with the Federal Rules of Civil Procedure.

Wherefore,

IT IS HEREBY RECOMMENDED that Plaintiff's action be dismissed without prejudice.

THE PARTIES ARE FURTHER NOTIFIED THAT WITHIN 14 DAYS OF SERVICE of a copy of these Proposed Findings and Recommended Disposition they may file written objections with the Clerk of the District Court pursuant to 28 U.S.C. § 636(b)(1). **A party must file any objections with the Clerk of the District Court within the fourteen-day period if that party wants to have appellate review of the proposed findings and recommended disposition. If no objections are filed, no appellate review will be allowed.**



UNITED STATES CHIEF MAGISTRATE JUDGE